

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

FC 2010-093161

02/22/2011

HONORABLE HELENE ABRAMS

CLERK OF THE COURT

K. Depue

Deputy

IN RE THE MARRIAGE OF
SHELLEY MAUREEN RUMANN

SHELLEY MAUREEN RUMANN
8723 E CAMELBACK RD
SCOTTSDALE AZ 85251

AND

DANIEL JAMES RUMANN

DANIEL JAMES RUMANN
3326 N 84TH PL
SCOTTSDALE AZ 85251

DOCKET-FAMILY COURT-SE
FAMILY COURT SERVICES-CCC

DECREE OF DISSOLUTION

The Trial in this matter was conducted on February 16, 2011. During the proceedings, the Court heard from the witnesses, including the parties. The Court has since considered the evidence, including the demeanor of the witnesses, reviewed the exhibits as well as the case history, and considered the parties' arguments.

After significant deliberation, the Court makes the following findings and enters the following orders:

THE COURT FINDS as follows:

- A. At the time this action was commenced at least one of the parties was domiciled in the State of Arizona and that said domicile had been maintained for at least 90 days prior to the filing of the Petition for Dissolution of Marriage.
- B. The conciliation provisions of A.R.S. § 25-381.09 have either been met or do not apply.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

FC 2010-093161

02/22/2011

- C. The marriage is irretrievably broken and there is no reasonable prospect for reconciliation.
- D. There are two minor children, common to the parties, namely: Jack (DOB: 11/13/96) and Samuel (04/17/2000).
- E. Mother is not pregnant.
- F. This was not a covenant marriage.
- G. To the extent that it has jurisdiction to do so, the court has considered, approved and made provision for the maintenance of either spouse and the division of property and debts.

Based on the above,

DISSOLUTION OF MARRIAGE

IT IS ORDERED dissolving the marriage of the parties and restoring each party to the status of a single person.

CUSTODY AND PARENTING TIME

Jurisdictional Findings

THE COURT FINDS that the parties have two minor children in common: Jack (DOB: 11/13/96) and Samuel (04/17/2000). The parties and the minor children have resided in Arizona continuously for at least the six months preceding the filing of the petition for dissolution. This Court, therefore, has jurisdiction as Arizona is the “home state” of the minor children. *See* A.R.S. § 25- 1031.

Best Interest Findings: A.R.S. § 25-403

The Court has considered the agreement of the parties and the factors under A.R.S. § 25-403. The parties have stipulated to a finding that the agreed upon plan is in the best interests of the minor children.

THE COURT FURTHER FINDS that there is no history of domestic violence (A.R.S. § 25-403(E) and 25-403.03), any drug related offenses of either party (A.R.S. § 25-403.04) and any sexual offenses (A.R.S. § 25-403.05) sufficient to preclude the award of joint legal custody as agreed.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

FC 2010-093161

02/22/2011

Legal Custody

Based upon the foregoing and in accordance with the best interests of the minor children,

THE COURT FURTHER FINDS that it is in the children's best interest that Mother and Father be awarded joint legal custody of Jack (DOB: 11/13/96) and Samuel (04/17/2000).

IT IS THEREFORE ORDERED awarding Mother and Father joint legal custody of Jack (DOB: 11/13/96) and Samuel (04/17/2000).

Custody Terms

Parental Access To Records And Information- Both parents are entitled to have equal access to documents and other information concerning each child's education and physical, mental, moral and emotional health including medical, school, police, court and other records directly from the custodian of the records or from the other parent. A person who does not comply with a reasonable request shall reimburse the requesting parent for court costs and attorney fees incurred by that parent to force compliance with this subsection. A parent who attempts to restrict the release of documents or information by the custodian, without a prior court order, is subject to appropriate legal sanctions.

Educational Arrangements- Both parents have the right to participate in school conferences, events, and activities (including extra-curricular), and the right to consult with teachers and other school personnel.

Medical And Dental Arrangements- Both parents have the right to authorize emergency medical/dental treatment, if needed, and the right to consult with physicians and other medical practitioners. Both parents shall advise the other parent immediately of any emergency medical/dental care sought for each child, to cooperate on health matters pertaining to each child and to keep one another reasonably informed regarding the status of each child's health. Both parents shall keep each other informed as to names, addresses, and telephone numbers of all medical/dental care practitioners.

Parental Communication- It is in the furtherance of each child's best interests for the parents to confer and for the views of each parent to be considered. There shall be communication between the parents to address day-to-day and more significant issues. The parents shall develop their communication by utilizing e-mail as their primary method for communication. This shall afford a method that ensures both accountability and verifiability. Both parties shall maintain and regularly review their e-mail accounts. They shall each respond in a timely fashion, even if such response is merely to acknowledge the receipt of information.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

FC 2010-093161

02/22/2011

Each should print copies of all e-mails received and sent so that if an issue arises in the future that has been addressed through e-mail, each party shall have proof as to what was communicated.

Relocation- Neither parent shall relocate the residence of the children outside of the state of Arizona or to a distance greater than 100 miles from the current residential locations unless that parent first secures the written consent of the other or secures a court order authorizing the move.

Decision Making Authority- It is anticipated that parental decisions shall be required for major issues in raising the children and in meeting on-going needs. If/when they arise, the parents shall address the issues. Each shall give good faith consideration to the views of the other and put forth best efforts to reach a consensus decision. If the decision involves medical or schooling issues, the parties may further elect to seek input from treating physicians or educators. Both parents shall be provided with such input.

Parenting Time

As a term of the overall custody orders, parenting time shall be exercised as follows:

Regular Access- Father shall have parenting time every Wednesday and Thursday and every other weekend from Friday until Monday morning.

Holiday Schedule- The parenting plan filed December 15, 2010 has the Holiday Schedule and is adopted as an order of the court.

Summer/Vacation- The parenting plan filed December 15, 2010 has the Summer/Vacation Schedule and is adopted as an order of the court.

CHILD SUPPORT

THE COURT FINDS the parties agree to a deviation of \$0.00 for child support because both parents are sharing equal custody at this time. No child support shall be paid to either party.

Insurance and Unreimbursed Medical Expenses

IT IS FURTHER ORDERED that Mother and Father shall provide medical insurance for the benefit of the parties' minor child, and shall provide an insurance card and claim filing information/forms to the other parent. All medical, dental and orthodontia expenses incurred for the health and protection of the child not covered by insurance shall be paid **50% by Father and 50% by Mother.**

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

FC 2010-093161

02/22/2011

With regard to unreimbursed medical, dental, and vision expenses,

IT IS ORDERED that except for good cause shown, any request for payment or reimbursement of uninsured medical, dental and/or vision costs must be provided to the other parent within 180 days after the date the services occur. The parent responsible for payment or reimbursement must pay his or her share, as ordered by the Court, or make acceptable payment arrangements with the provider or person entitled to reimbursement within 45 days after receipt of the request.

Both parents should use their best efforts to obtain services that are covered by the insurance. A parent who is entitled to receive reimbursement from the other parent for medical costs not covered by insurance shall, upon request of the other parent, provide receipts or other evidence of payments actually made.

Tax Deduction For Dependents

IT IS ORDERED that the parties may claim the eligible dependent as follows: Mother shall claim Jack every year and Father shall claim Samuel every year.

Exchange Of Income Information

IT IS FURTHER ORDERED that the parties shall exchange income information on every 24 months. Said financial information shall include, but not be limited to: personal tax returns with all schedules, affidavits of financial information, earning statements and other such documentation necessary to establish or prove the income of either party. In addition, at the time of the exchange of financial information, the parties shall also exchange residential addresses and the names and addresses of their respective employers.

SPOUSAL MAINTENANCE

Husband seeks an award of spousal maintenance in the amount of \$500.00 per month for a term of 5 years. Wife opposes the award, asserting that Husband does not qualify for an award of spousal maintenance.

The determination of spousal maintenance is controlled by A.R.S. § 25-319. The threshold question is entitlement, which is controlled by subsection (A) of the statute. It provides as follows:

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

FC 2010-093161

02/22/2011

In a proceeding for dissolution of marriage or legal separation, or a proceeding for maintenance following dissolution of the marriage by a court that lacked personal jurisdiction over the absent spouse, the court may grant a maintenance order for either spouse for any of the following reasons if it finds that the spouse seeking maintenance:

1. Lacks sufficient property, including property apportioned to the spouse, to provide for that spouse's reasonable needs.
2. Is unable to be self-sufficient through appropriate employment or is the custodian of a child whose age or condition is such that the custodian should not be required to seek employment outside the home or lacks earning ability in the labor market adequate to be self-sufficient.
3. Contributed to the educational opportunities of the other spouse.
4. Had a marriage of long duration and is of an age that may preclude the possibility of gaining employment adequate to be self-sufficient.

THE COURT FINDS that in accordance with subsection (A) above, Husband is entitled to an award of spousal maintenance. The Court, therefore, must address the amount and duration of spousal maintenance. In determining the amount and duration, "the current aim of spousal maintenance is to achieve independence for both parties and to require an effort toward independence by the party requesting maintenance." *Schroeder v. Schroeder*, 161 Ariz. 316, 321, 778 P.2d 1212, 1217 (1989). Noting this underlying principle, the Court must consider the statutory factors of A.R.S. § 25-319(B). Those factors, along with this Court's findings based thereon, are as follows:

1. *The standard of living established during the marriage.* The parties are middle class.
2. *The duration of the marriage.* The parties were married for 15 years.
3. *The age, employment history, earning ability and physical and emotional condition of the spouse seeking maintenance.* Husband is 46 years old. He worked 13 years with Schwab in the financial industry since 1993 making \$50,000.00 a year. Husband does not have any physical or emotional issues.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

FC 2010-093161

02/22/2011

4. *The ability of the spouse from whom maintenance is sought to meet that spouse's needs while meeting those of the spouse seeking maintenance.* Husband makes \$1,000.00 a month for unemployment. Wife makes \$3,800.00 a month.

5. *The comparative financial resources of the spouses, including their comparative earning abilities in the labor market.* Both parties are able to be fully employed.

6. *The contribution of the spouse seeking maintenance to the earning ability of the other spouse.* Wife has a real estate license and an Associates degree in Nursing. Husband has a Bachelor's Degree in Economics.

7. *The extent to which the spouse seeking maintenance has reduced that spouse's income or career opportunities for the benefit of the other spouse.* See above.

8. *The ability of both parties after the dissolution to contribute to the future educational costs of their mutual children.* Both parties are able to contribute.

9. *The financial resources of the party seeking maintenance, including marital property apportioned to that spouse, and that spouse's ability to meet that spouse's own needs independently.* Husband is able to live off of the money in his retirement account.

10. *The time necessary to acquire sufficient education or training to enable the party seeking maintenance to find appropriate employment and whether such education or training is readily available.* There are no plans to return to school at this time.

11. *Excessive or abnormal expenditures, destruction, concealment or fraudulent disposition of community, joint tenancy and other property held in common.* Not applicable.

12. *The cost for the spouse who is seeking maintenance to obtain health insurance and the reduction in the cost of health insurance for the spouse from whom maintenance is sought if the spouse from whom maintenance is sought is able to convert family health*

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

FC 2010-093161

02/22/2011

insurance to employee health insurance after the marriage is dissolved. Both parties have insurance.

13. All actual damages and judgments from conduct that results in criminal conviction of either spouse in which the other spouse or child was the victim. Not applicable.

Having considered all of the relevant factors, and based upon all of the facts and circumstances presented here,

THE COURT FINDS that Father is entitled to an award of spousal maintenance in the amount of \$200.00 for a term of 12 months.

THE COURT FURTHER FINDS that Mother is capable of paying spousal maintenance in the amount of \$200.00 per month for 12 months.

IT IS THEREFORE ORDERED that effective as of March 1, 2011, Mother shall pay Father spousal maintenance in the amount \$200.00 per month for 12 months. The 12 months will allow Father the time that he needs to secure additional employment and arrange for any training he needs to secure appropriate employment.

All spousal maintenance paid by Mother to Father shall be tax deductible for Mother and shall be deemed income to Father for income tax purposes. Further, the award shall be modifiable as to amount and duration in accordance with A.R.S. § 25-327. It shall terminate upon the death or remarriage of Father.

The spousal maintenance payments shall be made through the Support Clearinghouse. An automatic Order of Assignment is issued herewith. Until it becomes effective, Mother shall be responsible for ensuring that the payment is made through the Support Clearinghouse in a timely fashion.

DIVISION OF PROPERTY AND DEBTS

Community/Sole and Separate Property Claims and Debts

In a proceeding for dissolution of marriage, the court shall divide any disputed property in accordance with the property's character. Property is characterized by the time of its acquisition. If acquired by either spouse before marriage or acquired during marriage by gift, devise, or descent, property is characterized as separate property. A.R.S. § 25-213(A). Under Arizona law, the court shall assign each spouse's sole and separate property to that spouse.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

FC 2010-093161

02/22/2011

A.R.S. § 25-318(A).

If acquired by either spouse during marriage, property is characterized as community property (with the exceptions of property acquired by gift, devise, or descent). A.R.S. § 25-211(A). There is a presumption that any property acquired by either spouse during marriage is community property, unless demonstrated otherwise by clear and convincing evidence. *See Sommerfield v. Sommerfield*, 121 Ariz. 575, 578, 592 P.2d 771, 774 (1979). Moreover, any property acquired by either spouse outside of Arizona shall be deemed to be community property if such property would have been characterized as community property had it been initially acquired in Arizona. A.R.S. § 25-318(A).

Equitable Division

Under Arizona law, the court shall divide community property equitably, although not necessarily in kind, without any regard to marital misconduct. A.R.S. § 25-318(A). As a general presumption, equitable division requires that community property be divided substantially equally. *See Toth v. Toth*, 190 Ariz. 218, 221, 946 P.2d 900, 903 (1997). However, the court may order an unequal division of community property in consideration of excessive or abnormal expenditures or the destruction, concealment, or fraudulent disposition of property. A.R.S. § 25-318(C).

When dividing property, the court may consider all related debts and obligations. A.R.S. § 25-318(B). To determine property's value, the court shall select a valuation date. The selection of this valuation date rests within the wide discretion of the trial court and shall be tested upon review by the fairness of the result. *See Sample v. Sample*, 152 Ariz. 239, 242-43, 731 P.2d 604, 607-08 (Ct. App. 1986).

Real Property

THE COURT FINDS that the parties owned a house at 3326 N 84 Place, Scottsdale, AZ (the marital residence) as community real property.

IT IS ORDERED the marital residence shall be appraised by a mutually agreed upon appraiser.

IT IS FURTHER ORDERED the marital residence shall be sold **within 60 days**.

Personal Property

IT IS ORDERED that Wife is awarded the wedding ring as her personal property.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

FC 2010-093161

02/22/2011

Subject to the above,

IT IS ORDERED awarding to Father as his sole and separate property, subject to any liens or encumbrances on the property, all vehicles, household furniture, furnishings and appliances, and other personal property currently in his possession.

IT IS FURTHER ORDERED awarding to Mother as her sole and separate property, subject to any liens or encumbrances on the property, all vehicles, household furniture, furnishings and appliances, and other personal property currently in her possession.

Retirement Accounts

THE COURT FINDS that both parties contribute to 401(k) accounts and IRA accounts.

IT IS ORDERED that in equitably dividing the property, the parties shall arrange to have any necessary qualified domestic relations orders (QDRO) prepared. The parties shall share the cost to have any QDROs prepared.

Debts

THE COURT FINDS that the following community debts were identified:

- | | |
|------------------------------------|-------------|
| 1. Chase account ending in 4007 | \$22,000.00 |
| 2. Schwab account ending in 7747 | \$8,300.00 |
| 3. USAA account ending in 3820 | \$4,000.00 |
| 4. Lowes | \$200.00 |
| 5. Best Buy account ending in 3553 | \$400.00 |

IT IS ORDERED that in fairly and equitably allocating the community assets and the community debts, Father shall be solely responsible for the following:

The above accounts were identified as community debts and there was no evidence presented that they are not community debts. Therefore,

IT IS ORDERED that Father shall equally pay half of all community debts.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

FC 2010-093161

02/22/2011

IT IS FURTHER ORDERED that in fairly and equitably allocating the community assets and the community debts, Mother shall be solely responsible for the following:

The above accounts were identified as community debts and there was no evidence presented that they are not community debts. Therefore,

IT IS ORDERED that Mother shall equally pay half of all community debts.

IT IS FURTHER ORDERED as follows:

- Father shall be solely responsible for any credit card or debt in his name incurred after service of the Complaint.
- Mother shall be solely responsible for any credit card or debt in her sole name incurred after service of the Complaint.
- Any community debts that were not identified at the time of the trial shall be divided equally between the parties.
- Each party shall pay any debt incurred by him or her respectively since the date of service of the Complaint in this matter.
- Each party shall indemnify and hold harmless from any and all debts designated as the responsibility of that party by the terms set forth in this Decree.

Equalization

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

FC 2010-093161

02/22/2011

THE COURT FINDS that the above allocation of the real and personal property, when considered with the division of debt is fair and equitable under the circumstances and that no further adjustments are necessary.

FILED: Exhibit Worksheet

IT IS FURTHER ORDERED signing this minute entry as a formal order of this Court pursuant to Rule 81, Arizona Rules of Family Law Procedure.

/ s / HON. HELENE ABRAMS

HONORABLE HELENE ABRAMS
JUDICIAL OFFICER OF THE SUPERIOR COURT

All parties representing themselves must keep the Court updated with address changes. A form may be downloaded at: <http://www.superiorcourt.maricopa.gov/SuperiorCourt/Self-ServiceCenter>.